IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

FRIDAY, THE 26TH OCTOBER 2007 / 4TH KARTHIKA 1929

WP(C).No. 13218 of 2006(W)

AGAINST THE ORDER DATED / / IN IA.246/2006 IN OS.63/1998 of SUB COURT, PAYYANNUR

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PETITIONER:

M/S.NATIONAL FIRE ARMOUR, 41-A, KUTTY STREET, NEW STERLING ROAD BUS STOP, NUNGAM BAKKAM, CHENNAI 600 034, REP. BY ITS MANAGING PARTNER, A.S.,MENON.

BY ADV. SRI.M.SASINDRAN
SRI.T.P.ELDHO

RESPONDENTS:
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1. **M/S.MALABAR FUEL CORPORATION, THALIPPARAMBA.**

2. **M.P.SREEKANTHAN NAIR, MALABAR FUELS CORPORATION, MANANGING PARTNER, TALIPARMBA AMSOM, DESOM.**

3. **JAYALAKSHMI.S.NAIR, W/O.SREEKANTHAN NAIR, THALIPARAMBA AMSOM, DESOM.**

4. **K.KARUNAKARAN, PARTNER, MALABAR FUEL CORPORTION, TALIPARAMBA, VELLOOR AMSOM, DESOM.**

5. **VIJESH, S/O.BALAKRISHNAN, VELLUR AMSOM, DESOM.**

BY

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 26/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

M.N.KRISHNAN, J

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W.P.(C) No.13218 OF 2006

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Dated this the 26th day of October 2007

JUDGMENT

This writ petition is filed challenging Ext.P6 order. By Ext.P6, the learned Sub Judge has permitted Exts.B3 and B4 documents to be forwarded to a hand writing expert for comparison of the signatures. The documents which are proposed to be sent for comparison of signatures are two receipts which according to the petitioner evidence payment of amount. The Sub Judge was considering the matter after remand by a Division Bench of this court and the purpose of remand was to consider about a payment of Rs.1 lakh. Now what the defendants want to agitate is regarding payment of Rs.85,000/- and Rs.65,000/-. There is no case in the written statement for the defendants regarding such a discharge or payment. Naturally, no evidence can be adduced because it is beyond the scope of pleadings. I feel that the learned Sub Judge has not understood the bone of contentions between the parties and the impact of the judgment of this court whereby the matter is remanded.

Therefore, the order requires interference and as the other side is not

before me, I set aside the order and remit it back to the same court for consideration of the entire matter afresh after hearing both sides.

With the above direction, the writ petition is disposed of.

M.N.KRISHNAN, JUDGE

Cdp/-